



The Law Relating To Complementary and Alternative (CAM) Providers

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Licensed Complementary Modalities

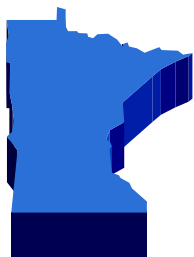
There is legislation relating to CAM including chiropractic, naturopathy, massage, and osteopathy in some states. If you are licensed as an allied health care provider, you may be able to adjunct complementary modalities, such as aromatherapy or herbal medicine, to your existing practice. You must check with your licensing board regarding your scope of practice and additional modalities. At the time of writing:

- Naturopaths (ND) are licensed in 12 states: Alaska, Arizona, California, Connecticut, Hawaii, Maine, Montana, New Hampshire, Oregon, Utah, Vermont, and Washington.
- Acupuncturists are licensed in 34 states (note that the scope of practice varies widely).
- Chiropractors (DC) are licensed in all 50 states and 11 of them mandate that health plans include chiropractic benefits.

Laws Relating To Otherwise Unlicensed CAM Health Care Providers

The legislation varies from state to state and is not consistent. For this reason, it is always important to investigate the laws of the state in which you operate and keep abreast of proposed changes.

MINNESOTA



Minnesota was the first state to provide legislation to cover unlicensed CAM health care providers. Minnesota provided a new model for other states concerned with protecting freedom of access to health care, while protecting public health and safety.

- Established Office of Unlicensed Complimentary and Alternative Health Care Practice
- Registered CAM providers exempt from prosecution for "practicing medicine without a license" if following regulations
- Provides for Disciplinary Action if there is failure to follow regulations

Prohibited conduct under MN legislation:

- Conviction of certain crimes
- Failure to self report
- Sexual contact with clients or former clients

- False, fraudulent, deceptive, or misleading advertising
- Deceptive, fraudulent, or harmful conduct
- Unnecessary danger to a client's life, health, or safety
- Mental incompetence
- Lack of reasonable safety to clients
- Alcohol or drug abuse
- Breaching client confidentiality
- Ignoring client's request
- Kickbacks or fraudulent billing
- Failure to report as required
- Undue influence, harassment, duress, deception, or fraud
- Unprofessional relationship
- Failure to provide a client with a copy of the client bill of rights
- Violating the client bill of rights
- Noncompliance with disciplinary provisions or rules
- Use of the title "doctor", "Dr.", or "physician"
- Failure to provide a client with a referral to a licensed health care provider where necessary

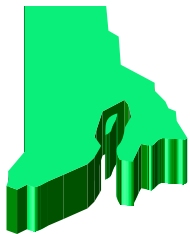
Clients must sign a written statement that they have received the client bill of rights before any services are provided. The client bill of rights must include:

- Practitioner's name and contact details
- Qualification details
- Information on fees
- Brief summary of theoretical approach of practitioner

Clients have the right to:

- File complaint with the Office of Unlicensed Complementary and Alternative Health Care Practice
- Complete information about practitioner's assessment and recommendation, including duration
- Courteous treatment - free from verbal, physical, or sexual abuse by the practitioner
- Confidentiality
- Access own records
- A free choice of practitioners
- Coordinated transfer when provider changes
- Refuse services





RHODE ISLAND

The Unlicensed Health Care Practices Act was passed in Rhode Island on June 15, 2002. Modeled after the Minnesota Health Freedom Act, the new law makes freedom of access to health care a fundamental right for the citizens of Rhode Island. Rhode Island's legislation ([http://www.rilin.state.ri.us/statutes/title23/23%2D74/23%2D74%](http://www.rilin.state.ri.us/statutes/title23/23%2D74/23%2D74%2D1.htm)

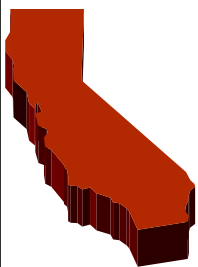
[2D1.htm](http://www.rilin.state.ri.us/statutes/title23/23%2D74/23%2D74%2D1.htm)) allows unlicensed complementary health care practitioners to operate and receive compensation for their services provided they abide by the statute.

Consumers must approve, in writing, all services to be performed. Practitioners must disclose all items in the "Bill of Rights" and the State of Rhode Island has oversight authority. The law defines "Unlicensed Health Care Practices" as:

- 20 therapies commonly used to complement allopathic interventions, and
- Not including diagnosing and treating disease, performing surgery, or prescribing, administering, or dispensing legend drugs.

The law requires:

- Practitioners to provide each client with a "Bill of Rights" disclosing education and training, services to be provided, fees to be charged, name, address, and information on filing complaints.
- The Department of Health to handle client complaints and to invoke disciplinary measures on practitioners who fail to follow the law.
- The client to sign a disclosure statement that all parts of the "Bill of Rights" have been provided to the client before any services begin.



CALIFORNIA

California Senate Bill 577 2002 (SB 577) exempts CAM health practitioners from California's "Medical Practices' Act". It allows CAM practitioners to offer their services provided they do NOT:

- Conduct surgery
- Administer X rays
- Prescribe legend drugs
- Recommend the discontinuance of legend drugs
- Willfully cause or create risk of bodily harm or injury
- Set fractures
- Treat lacerations or abrasions through electrotherapy, or
- Hold themselves out as a licensed physician.

All CAM practitioners must disclose to all clients in plain language that the client understands that the:

- CAM practitioner is not a licensed physician
- Nature of the services, and
- Practitioner's educational and training experience.

The CAM practitioner must obtain a written acknowledgement from the client that the client received the disclosure, and the acknowledgement must be kept on file for three years. Download a copy of SB577 from the library laws page (http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0551-0600/sb_577_bill_20020923_chaptered.html).

One of the most interesting parts of the legislation is the introduction, which is reproduced below:

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS: SECTION 1. The Legislature hereby finds and declares all of the following:

- Based upon a comprehensive report by the National Institute of Medicine and other studies, including a study published by the New England Journal of Medicine, it is evident that millions of Californians, perhaps more than five million, are presently receiving a substantial volume of health care services from CAM health care practitioners. Those studies further indicate that individuals utilizing CAM health care services cut across a wide variety of age, ethnic, socioeconomic, and other demographic categories.
- Notwithstanding the widespread utilization of CAM medical services by Californians, the provision of many of these services may be in technical violation of the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code). CAM health care practitioners could therefore be subject to fines, penalties, and the restriction of their practice under the Medical Practice Act even though there is no demonstration that their practices are harmful to the public.
- The Legislature intends, by enactment of this act, to allow access by California residents to complementary and alternative health care practitioners who are not providing services that require medical training and credentials. The Legislature further finds that these nonmedical complementary and alternative services do not pose a known risk to the health and safety of California residents, and that restricting access to those services due to technical violations of the Medical Practice Act is not warranted.



IDAHO

TITLE 54 PROFESSIONS, VOCATIONS, AND BUSINESSES, CHAPTER 18 PHYSICIANS AND SURGEONS, 54-1804. UNLICENSED PRACTICE — PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE.

Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

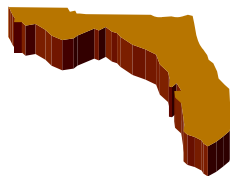
- A medical officer of the armed forces of the United States, of the United States public health service, or of the veteran's administration, while engaged in the performance of his official duties;
- A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state;

- A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;
- An extern, intern or resident who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules of the board or a physician assistant licensed by the board;
- A person authorized or licensed by this state to engage in activities, which may involve the practice of medicine;
- A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;
- A person administering a remedy, diagnostic procedure, or advice as specifically directed by a physician;
- A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received;
- A person administering a family remedy to a member of the family;
- A person who administers treatment or provides advice regarding the human body and its functions that:
 - ◆ Does not use legend drugs or prescription drugs in such practice;
 - ◆ Uses natural elements such as air, heat, water and light;
 - ◆ Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug, and cosmetic act;
 - ◆ Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements;
 - ◆ Does not perform surgery;
 - ◆ Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter.

GEORGIA

There was a similar bill proposed in Georgia in 2002 that does not appear to have progressed. The Complementary and Alternative Health Care Freedom of Access and Consumer Protection Bill, HB - 749, which is modeled on the Minnesota Act, was heard in the House General Health Subcommittee on February 17, 2000.

Although it did not pass out of committee, the subcommittee members chose to send it to a study committee. Five legislators from the general subcommittee of the house health and ecology committee were assigned to work with the Complementary and Alternative Medicine Association (CAMA) over the summer to develop the Bill for reintroduction next session. The bill can be viewed online: <http://www.state.ga.us/services/leg/ShowBill.cgi?year=1999&filename=1999/HB749>



FLORIDA

There is a similar Health Freedom Bill proposed in Florida by Health Freedom Action. As of 12/20/06, the Bill had not yet been introduced. The group is seeking volunteers and donations to push the Bill forward. Visit <http://www.floridahealthfreedom.org/> for more information.

Roger Wicke, Ph.D. has written two very helpful and informative articles about practicing herbal medicine legally. The law relating to herbalists also applies to aromatherapists in most cases. Visit <http://www.rmhiherbal.org/a/f.ahr5.summ.html> for the online lecture.

WHAT CAN YOU DO?



Freedom of access to holistic health care and wellness legislation is a political issue and your vote counts!

It cannot be emphasized enough how important it is for each of us to keep up-to-date and take action where proposed legislation will affect our rights. The web is an excellent resource for this. You can also sign up for our newsletter. Some useful sites include:

<http://www.nationalhealthfreedom.com/>

<http://www.minnesotanaturalhealth.org/>

Institute for Health Freedom:

<http://www.forhealthfreedom.org> has a good source of information state by state

Monica Miller's health lobby: <http://www.healthlobby.com/>

includes good facts about CAM for press releases and articles, information on state and federal issues, and a "how to" guide to lobbying health issues

Foundation for the Advancement of Innovative Medicine (FAIM) has updates and information at www.faim.org

For California updates, go to www.citizenshealth.org

For EU updates: try <http://www.alliancenaturalhealth.org/>

Your opinion (and your vote) count, so do not feel that you are a lone voice. Lobbying successes by the natural health industry include the DSHEA updates, Organic Standards, and the Minnesota legislation. Constituents in all other states can also write to the state's governor to support introduction of legislation similar to Minnesota.

Disclaimer: This information is for educational purposes only and does not replace the need for legal advice. State laws vary greatly. If you have a specific question about the laws in your state, seek the advice of your attorney.

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Upcoming Test Date

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*Applications received after the deadline cannot be guaranteed acceptance.

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To advertise a course, program, or continuing education offering in future editions of the ARC newsletter, contact ARC at (503) 244-0726 or info@aromatherapycouncil.org

Do you have a great test question? If so, please submit it directly to PTC at ptcny@ptcny.com and it may appear in an upcoming examination!

Attention RAs

Log onto: <http://www.aromatherapycouncil.org/arcregister.html> to check your listings and make any necessary changes to your contact information. This will ensure that you continue to receive valuable information from ARC concerning reregistration information, newsletters, and more!



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